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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,767	05/24/2007	Philip A. Block	60376-USA	2237

7590
John M. Sheehan
Fmc Corporation
1735 Market Street
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EXAMINER

KRECK, JOHN J

ART UNIT	PAPER NUMBER
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3672

MAIL DATE	DELIVERY MODE
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04/03/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/589,767	Applicant(s) BLOCK ET AL.	
	Examiner John Kreck	Art Unit 3672	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 06 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed 3/6/09 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the claim limitation “in the absence of ozone” is not supported by the specification.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant adds the new limitation “in the absence of ozone”. This is not supported by the application as filed.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 9-16 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 5,849,201 to Bradley

Bradley discloses the method including contacting an organic compound with a composition comprising a water soluble peroxygen (column 6, line 65) and a pH modified which maintains the pH greater than about 10 (column 11, line 11) as called for in claim 1.

Bradley discloses soil, sludge, etc as called for in claim 2---see col. 1 lines 8-10.

Bradley discloses at least polyaromatic hydrocarbons (PAH) ---see col. 1, line 17--as called for in claim 3.

Bradley discloses dipersulfate (column 9, line 67) as called for in claim 4.

Bradley discloses hydroxide as called for in claim 9.

Bradley discloses sodium hydroxide as called for in claim 10.

Bradley discloses the quantities and conditions as called for in claim 11.

Bradley discloses in-situ or ex-situ as called for in claim 12.

Bradley discloses addition as called for in claim 13.

Bradley discloses heating (column 10, line 19) as called for in claim 14.

Bradley discloses catalyst as called for in claim 15.

Bradley discloses the transition metal catalyst (column 10, line 46) as called for in claim 16.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bradley.. Bradley broadly discloses "persulfate" and thus fails to explicitly disclose the specific persulfate or monopersulfate salts.

Since each of the claimed persulfate or monopersulfate salts are well known

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oxidizers [reference applicant's specification at page 5, line 25], one of ordinary skill in the art would have found it obvious to have modified the Bradley process to have used sodium, ammonium, or potassium persulfate; sodium or potassium monopersulfate; or combinations as called for in claims 5-8.

4. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bradley in view of Lundy (U.S. Patent Application Publication number 2002/0110509).

Bradley fails to disclose the catalyst in combination with a chelating agent.

Lundy teaches the advantages of chelated iron in a similar process. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Bradley process to have included the catalyst in combination with a chelating agent as called for in claim 17.

Response to Arguments

5. Applicant's arguments filed 3/6/09 have been fully considered but they are not persuasive. Applicant asserts that since the Bradley process requires ozone, it cannot anticipate the claimed invention. Assuming, arguendo, that applicant has proper support for the limitation "in the absence of ozone"; it is examiner's position that the claims are still anticipated or obvious as stated above: note that claim 1 requires "comprising contacting with a composition comprising a persulfate and a ph modifier...in the absence of ozone". Consider claim 1 of Bradley, which specifies combining with "oxidant other than ozone" (18:20) and "mixing" (18:26) and claims 4 "during mixing...to

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achieve alkaline pH" (18:35) and 6 "persulfate" (18:40). The first two steps of Bradley plainly include each limitation of claim 1.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is 571-272-7042. The examiner can normally be reached on Mon-Fri 6am-3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on 571-272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Kreck/
Primary Examiner, Art Unit 3672

2 April 2009